

Minnesota Board of Water and Soil Resources Resolution No. 18-63

**Outreach for the Development of Options to Address Excessive Soil Loss and
Rescinding Board Resolution 16-32**

WHEREAS, Laws of Minnesota 2015, 1st Special Session, Chapter 4 amended the Excessive Soil Loss provisions of Minnesota Statute Chapters 103B and 103F; and,

WHEREAS, the Board of Water and Soil Resources (Board) is authorized under Minnesota Statute Sections 15.012 and 103F.401 through 103F.455 to establish and periodically revise rules to guide implementation of the Excessive Soil Loss statute; and,

WHEREAS, the Board adopted rules in 1986 in Minnesota Rules Chapter 8400.4000 to 8400.4080 to address the Excessive Soil Loss Program; and,

WHEREAS, the Board adopted resolution 16-32 on May 25, 2016 publishing interim draft guidance for agency staff and local governments to use when responding to complaints under Minnesota Statute Sections 103F.401 through 103F.455 and authorizing revision of Minnesota Rules Chapter 8400.4000 to 8400.4080 to bring it into conformance with the statute; and,

WHEREAS, Board staff have engaged with stakeholders and partners since adoption of resolution 16-32 to assess options available to resolve potential excessive soil loss concerns; and,

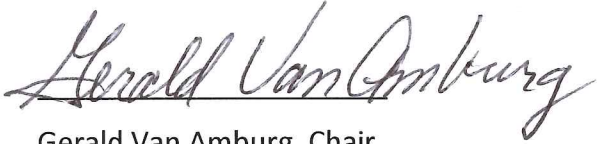
WHEREAS, the Board's Buffers, Soils and Drainage Committee has reviewed the draft Interim Excessive Soil Loss Guidance and the potential value in revising Minnesota Rules Chapter 8400.4000 to 8400.4080 and recommends the Board rescind Resolution No. 16-32 and directs staff to seek continued informal input from stakeholders prior to further steps related to the rulemaking processes and program development.

NOW THEREFORE BE IT RESOLVED, that the Board:

- a) Rescinds Resolution No. 16-32 by which staff were authorized to initiate the rulemaking process and the following interim guidance was approved: Excessive Soil Loss Complaints – Agricultural Activities; and
- b) Directs staff to continue seeking input from counties and soil and water conservation districts and other stakeholders on options and alternatives for local options to address excessive soil loss; and
- c) Requests that the Buffers, Soils and Drainage Committee annually review the status of

outreach and considerations for next steps and inform the board.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

A handwritten signature in cursive script that reads "Gerald Van Amburg". The signature is written in dark ink and is positioned above the printed name.

Gerald Van Amburg, Chair

A handwritten date "10-24-2018" in cursive script, positioned above a horizontal line.

Date

Attachment: Resolution #16-32. Approved May 25, 2016

Rescinded 10/24/18 per BWSR board order 18-63

Minnesota Board of Water and Soil Resources Resolution No. 16-32

**Approval of Interim Guidance for Excessive Soil Loss Complaints and
Authorization to Initiate Rulemaking to Revise the Excessive Soil Loss Rules,
Minnesota Rules Chapter 8400.4000 to 8400.4080**

WHEREAS, the Board of Water and Soil Resources (Board) is authorized under Minnesota Statute 103F.401 through 103F.455 to establish rules to govern implementation of the Excessive Soil Loss statute; and,

WHEREAS, the Board adopted rules in 1986 in Minnesota Rules Chapter 8400.4000 to 8400.4080 to address the Excessive Soil Loss Program; and,

WHEREAS, Laws of Minnesota 2015, 1st Special Session, Chapter 4 amended the Excessive Soil Loss statute to eliminate the requirement that the law is only applicable with a local government ordinance, created specific administrative penalty order authority to enforce the law, removed local enforcement through a civil penalty, and revised requirements for state cost-share of conservation practices to prevent excessive soil loss; and,

WHEREAS, Board staff have developed interim guidance to advise counties and soil and water conservation districts, and Agency staff on the implementation of these statutory changes until such time as rules can be adopted; and,

WHEREAS, the Board's Buffers, Soils and Drainage Committee have reviewed the Interim Excessive Soil Loss Complaint guidance and the need to revise Minnesota Rules Chapter 8400.4000 to 8400.4080 and recommends the Board approve the interim guidance and authorize the initiation of rulemaking.

NOW THEREFORE BE IT RESOLVED, that the Board adopts the recommendation of the Buffers, Soils and Drainage Committee to approve the interim guidance on excessive soil loss and authorizes staff to update it as needed and initiate the rulemaking process to revise Minnesota Rules Chapter 8400.4000 to 8400.4080.

BE IT FURTHER RESOLVED, that the Board authorizes staff to establish a stakeholder committee to develop soil erosion standards and inform the rule amendment process

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Brian Napstad, Chair